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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,999	03/12/2004	Daniel Lyakovetsky	050704/344077	6861
99434 7590 03/29/2012 McKesson Corporation and Alston & Bird LLP c/o Alston & Bird LLP Bank of America Plaza 101 South Tryon St., Suite Charlotte, NC 28280-4000				
EXAMINER				
RAPILLO, KRISTINE K				
ART UNIT		PAPER NUMBER		
3626				
NOTIFICATION DATE		DELIVERY MODE		
03/29/2012		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptomail@alston.com

Office Action Summary

Application No.

10/798,999

Applicant(s)

LYAKOVETSKY, DANIEL

Examiner

KRISTINE RAPILLO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/6/2012.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 9-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment submitted February 6, 2012. Claims 7 and 8 were previously cancelled. Claims 1 – 6 and 9 – 31 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 2, 5, 9 – 12, and 14 – 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCallum (U.S. Patent Number 5,784,635) in view of Kennedy et al., herein after Kennedy (U.S. Patent Number 7,356,460) further in view of Wiggins (U.S. Publication Number 2002/0120473 A1).

In regard to claim 1 (Previously Presented), McCallum teaches an apparatus comprising a processor configured to:

convert a data point from a first format into a uniform format, wherein said data point represents data from at least one of the insurance claim (column 5, lines 1 – 4; column 6, lines 40 – 46; and, column 10, lines 44 – 50) where McCallum teaches converting source data into a uniform format which includes insurance company data;

receive said data point in said uniform format and send said data point to a memory, wherein said data point is a member of a plurality of data points in said uniform format in said memory (column 6, lines 22 – 56) where McCallum discloses importing the uniform source data. It is inherent that when data is imported to a destination, it is received at a destination; and

retrieve said plurality of data points from said memory and produce one or more metrics from said plurality of data points (column 7, lines 6 – 33 and column 8, lines 36 – 52 where McCallum discloses

"cleaning" in which data points having common elements are linked (i.e. producing a metric such as patient, physician, payor, hospital) and anomalies in the data are cleaned).

McCallum fails to teach an apparatus configured to: monitor a plurality of insurance claims on a real-time basis; at least one of the metrics comprises data identifying a threshold value associated with the insurance claims and specifies an alertable condition; identify one or more expired data points of said plurality of data points in said memory and create at least one summary associated with the one or more expired data points, wherein each of the expired data points are associated with a time period and wherein the summary comprises information associated with one or more insurance claims and reduce the information in at least one of the insurance claims in response to a respective time period elapsing; analyze data of the insurance claims on a real-time basis and determine a value on the basis of the analyzed data; and, compare the value with the threshold value and in an instance in which the value is below the threshold value, generate an alert that is sent to a device.

Kennedy teaches an apparatus configured to: monitor a plurality of insurance claims on a real-time basis (column 4, lines 15 – 18); at least one of the metrics comprises data identifying a threshold value associated with the insurance claims and specifies an alertable condition (column 9, line 60 through column 10, line 16); analyze data of the insurance claims on a real-time basis and determine a value on the basis of the analyzed data (Figure 16 and column 3, line 63 through column 4, line 4); and, compare the value with the threshold value and in an instance in which the value is below the threshold value, generate an alert that is sent to a device (column 9, line 60 through column 10, line 16 and claim 1).

McCallum and Kennedy fail to teach an apparatus comprising a processor configured to: identify one or more expired data points of said plurality of data points in said memory and create at least one summary associated with the one or more expired data points; wherein each of the expired data points are associated with a time period and wherein the summary comprises information associated with one or more insurance claims and reduce the information in at least one of the insurance claims in response to a respective time period elapsing.

Wiggins teaches an apparatus comprising a processor configured to: identify one or more expired data points of said plurality of data points in said memory (paragraph [0081] where a user can search for

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(i.e. identify) a particular transaction, which the Examiner equates to a data point/claim) and create at least one summary associated with the one or more expired data points (paragraph [0081] where a user can obtain a transaction summary): wherein each of the expired data points are associated with a time period (paragraphs [0034] and [0081] where the claim processing data expires after a period of time) and wherein the summary comprises information associated with one or more insurance claims and reduce the information in at least one of the insurance claims in response to a respective time period elapsing (paragraphs [0034], [0050], and [0055]). The phrase "expired data" is a design choice; the data is relabeled after an arbitrary time, thus renamed data remains the same.

It would have been obvious to one of ordinary skill in the art to include in the system and method of collecting physician data of McCallum and the computer implemented claim processing system of Kennedy, the ability to allow a physician to file insurance claims over the internet as taught by Wiggins since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

In regard to claim 2 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 1.

McCallum and Kennedy fail to teach an apparatus wherein the processor is further configured to issue the alert when said metric satisfies the alertable condition.

Wiggins further teaches an apparatus wherein the processor is further configured to issue the alert when said metric satisfies the alertable condition (paragraph [0061]) where an "alert" object reads and writes alerts to and from the database.

The motivation to combine the teachings of McCallum, Kennedy, and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 5 (Previously Presented), McCallum, Kennedy, and Doherty teach the apparatus of claim 1. McCallum further teaches an apparatus: wherein said data point is a first data point

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(claim 1 of McCallum); and wherein the processor is further configured to convert a second data point from a second format into said uniform format (column 6, lines 47 through column 7, line 5), wherein said second data point represents data from at least one of the insurance claims (column 10, lines 44 – 50), and wherein said second format is different from said first format (column 6, line 47 – through column 7, line 5), and wherein said processor is further configured to receive said second data point in said uniform format and send said second data point to said memory (column 7, lines 6 – 33 and column 8, line 36 – 52).

McCallum does not explicitly teach an apparatus, although McCallum states in the specification that the system described can be used for providing physician data (i.e. diagnosis codes, patient identification) uniformly linked to hospitals, insurance companies, and more (column 6, line 40 through column 7, line 5). However, McCallum teaches a system and method for standardizing a physicians records located at physician's offices, laboratories, hospitals, etc. McCallum teaches a method and system in which data is extracted and converted into a uniform format, sent to a database, and forms a metric (i.e. measure number of patients using the same insurance company).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use a method and system as taught by McCallum as the invention disclosed by McCallum teaches all of the limitations as the applicant's invention. McCallum teaches a system which provides an efficient means for claim processing by enabling all claims submitted, from any number of systems, to be in a uniform formation to ensure accurate and reliable information (column 2, lines 43 – 62).

In regard to claim 9 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 1.

McCallum and Kennedy fail to teach a system wherein said one or more expired data points subsequent to being aggregated by said processor, are deleted by said processor from said memory.

Wiggins further teaches a system wherein said one or more expired data points subsequent to being aggregated by said processor, are deleted by said processor from said memory (paragraph [0061]).

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The motivation to combine the teachings of McCallum, Kennedy, and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 17 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 9.

McCallum and Kennedy fail to teach a system wherein said processor is further configured to store the at least one summary in said memory.

Wiggins further teaches a system wherein said processor is further configured to store the at least one summary in said memory (paragraphs [0034], [0050] and [0055]).

The motivation to combine the teachings of McCallum, Kennedy, and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 18 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 1.

McCallum and Kennedy fail to teach an apparatus wherein the alert comprises information specifying a condition associated with the insurance claims that requires attention of a user.

Wiggins teaches an apparatus wherein the alert comprises information specifying a condition associated with the insurance claims that requires attention of a user (paragraphs 61 and 64 where an alert can be sent in the event of an error).

The motivation to combine the teachings of McCallum, Kennedy, and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 19 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 18.

McCallum and Kennedy fail to teach an apparatus wherein the processor is further configured to escalate and resend the alert when the alert is unacknowledged by the user within a predetermined time period.

Wiggins teaches an apparatus wherein the processor is further configured to escalate and resend the alert when the alert is unacknowledged by the user within a predetermined time period (paragraph 61 where it is obvious to resend an alert if no response from user).

The motivation to combine the teachings of McCallum, Kennedy, and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

In regard to claim 20 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 1.

McCallum fails to teach an apparatus wherein the threshold value relates to at least one of a dollar amount, or a throughput of the insurance claims being processed.

Kennedy teaches an apparatus wherein the threshold value relates to at least one of a dollar amount, or a throughput of the insurance claims being processed (column 7, lines 34 – 44 and column 9, line 60 through column 10, line 16).

The motivation to combine the teachings of McCallum, Kennedy, and Wiggins is discussed in the rejection of claim 1, and incorporated herein.

Apparatus, computer program product, and method claims 10 – 12, 14 – 16, and 21 - 31 repeat the subject matter of claims 1 – 2, 5, and 17 - 20. As the underlying processes of claims 10 - 12, 14 – 16, and 21 - 31 have been shown to be fully disclosed by the teachings of McCallum, Kennedy, and Wiggins in the above rejections of claims 1 – 2, 5, and 17 - 20; as such, these limitations (10 - 12, 14 – 16, and 21 - 31) are rejected for the same reasons given above for claims 1 – 2, 5, and 17 – 20 and incorporated herein.

4. Claims 3, 4, 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCallum (U.S. Patent Number 5,784,635) and Kennedy et al., herein after Kennedy (U.S. Patent Number 7,356,460) in view of Wiggins (U.S. Publication Number 2002/0120473 A1) and further in view of Pish (U.S. Publication Number 2003/0009357 A1).

In regard to claim 3 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 1.

McCallum and Kennedy fail to teach an apparatus wherein said alertable condition is selectable by the processor from the group consisting of (a) threshold-based condition, (b) an experience based condition, or (c) a rule based condition.

Wiggins teaches an apparatus where the alertable condition is (b) an experience-based condition (paragraph [0069]).

McCallum, Kennedy, and Wiggins fail to teach an apparatus wherein said alertable condition is selectable by the processor from the group consisting of (a) threshold-based condition or (c) a rule based condition.

Pish further teaches an apparatus wherein said alertable condition is selectable by the processor from the group consisting of (a) a threshold-based condition (paragraph [0279] where error messages are detected based on levels (thresholds)) or (c) a rule-based condition (paragraphs [0121] through [0129]). Pish discloses an invention in which claims are organized based upon detailed information in the claims (paragraphs [1359], [1474], and [1537]). A claim folder manages the claim information from start to finish and triggers responses to perform tasks (paragraphs [1344] through [1355]), thus Pish discloses rules based conditions.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include an apparatus wherein said alertable condition is selectable by the processor from the group consisting of (a) a threshold-based condition or (c) a rule-based condition as taught by Pish, within the apparatus of McCallum, Kennedy, and Wiggins, with the motivation of providing a system in which data sets can be organized and linked to one another for a particular project (paragraph [0019]), thus organizing claims is considered a data set and can be linked to other claims.

In regard to claim 4 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 1.

McCallum, Kennedy, and Wiggins fail to teach an apparatus wherein said at least one metric is in a form of a data cube.

Pish teaches an apparatus wherein said at least one metric is in a form of a data cube (paragraphs [1176] – [1177]). Pish's disclose an array of values to detect the differences of the query. A data cube was defined by the applicant in paragraph [0014] of the specification as an array of values.

The motivation to combine the teachings of McCallum, Kennedy, Wiggins, and Pish is discussed in the rejection of claim 3, and incorporated herein.

In regard to claim 6 (Previously Presented), McCallum, Kennedy, and Wiggins teach the apparatus of claim 1.

McCallum, Kennedy, and Wiggins fail to teach an apparatus wherein said at least one metric is a first metric in a form of a first data cube having a first set of dimensions, and wherein said processor is further configured to produce a second metric the metrics in a form of a second data cube having a second set of dimensions.

Pish further teaches an apparatus wherein said at least one metric is a first metric in a form of a first data cube having a first set of dimensions, and wherein said processor is further configured to produce a second metric the metrics in a form of a second data cube having a second set of dimensions (Abstract and paragraph [0019]).

The motivation to combine the teachings of McCallum, Kennedy, Wiggins, and Pish is discussed in the rejection of claim 3, and incorporated herein.

Apparatus and computer program product claim 13 repeats the subject matter of claim 3. As the underlying processes of claim 3 has been shown to be fully disclosed by the teachings of McCallum, Kennedy, Wiggins, and Pish in the above rejections of claim 3; as such, these limitations (13) are rejected for the same reasons given above for claim 3 and incorporated herein.

Response to Arguments

5. Applicant's arguments filed February 6, 2012 have been fully considered. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed February 6, 2012.

6. The Applicant argues McCallum, Kennedy, and Wiggins, taken individually or in combination, do not teach or suggest and are altogether silent regarding an apparatus comprising a processor configured to: (A) retrieve said plurality of data points from said memory and produce one or more metrics from said plurality points, at least one of the metrics comprises data identifying a threshold value associated with the insurance claims and specifies and alertable condition, The Examiner respectfully disagrees.

McCallum discloses data elements which may include insurance company data and billing data (Figures 2, 3, and 7). McCallum discloses extracting source data (retrieving) from existing computer based information systems supporting groups of physicians and other health care professionals, resulting in a variety of formats of source data. The source data is converted to a uniform format within a common file structure of recognized fields (column 4, lines 57 – 66). The source data is parsed into specific data elements (such as date, patient name, physician, procedure) and binned into a predetermined destination data field located within a common universal data structure (column 6, lines 59 – 66). The data is cleansed in which data points are linked, thus producing a "metric" such as same patient, same hospital, or same physician (column 7, lines 6 - 33).

Kennedy discloses a process which determines a score that a claim includes sufficient information to identify a medical provider. If the score exceeds a threshold, the process may automatically notify (alert) parties of the adjudication decision and handle disbursements or may notify claim examiner that human review is required (column 9, line 60 through column 10, line 16).

Therefore, Applicant's argument is not persuasive as the combination of McCallum and Kennedy disclose a retrieving source data and providing a metric, which comprises data identifying a threshold value associated with the insurance claims and specifies and alertable condition.

7. The Applicant argues McCallum, Kennedy, and Wiggins, taken individually or in combination, do not teach or suggest and are altogether silent regarding an apparatus comprising a processor configured

to: (B) analyze data of the insurance claims on a real-time basis and determine a value on the basis of the analyzed data and compare the value with the threshold value and in an instance in which the value is below the threshold value, generate an alert that is sent to a device. The Examiner respectfully disagrees. Kennedy discloses a system which automatically adjudicates a claim and can analyzed the effect of different claim provisions and the process may be implemented in real-time (figure 16; column 3, line 63 through column 4, line 25). Thus, Applicant's argument is not persuasive.

8. In regard to claim 3, the Applicant argues that the combination of McCallum and Wiggins is deficient in the same manner as independent claims 1 and 12, and Pish does not make up for the deficiencies of McCallum and Wiggins, and is not cited as such. The response to the Applicants argument in regard to the deficiency in McCallum and Wiggins is discussed in the rejection of claim 1 above. The Applicant's arguments are non-persuasive and the rejection of claim 3 is maintained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 3:30 pm Eastern Time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Morgan can be reached on 571-272-6773. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. R./

Examiner, Art Unit 3626

/Robert Morgan/

Supervisory Patent Examiner, Art Unit 3626